

1 BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
2 EXAMINERS IN MEDICINE AND SURGERY
3
4

5 In the Matter of:

6 ROGER D. SCOTT,

7 Holder of License No. 1318 for
8 the Practice of Osteopathic
9 Medicine and Surgery in the
State of Arizona

) Case No. 1428(A)
)
) BOARD'S FINDINGS OF FACT,
) CONCLUSIONS OF LAW AND
) ORDER

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11 Roger D. Scott, D.O., appeared before the Board of
12 Osteopathic Examiners in Medicine and Surgery (hereinafter,
13 "Board") on July 1, 1993 and July 30, 1993, concerning the
14 allegations set forth in the Board's formal Complaint and Notice
15 of Hearing.

16 This matter previously came on for hearing on March 29,
17 30, 31, April 1, 2, and 3, 1993 in Phoenix, Arizona before the
18 Board's designated hearing officer, Harold Merkow, attorney at
19 law. The purpose of the hearing was to determine whether grounds
20 exist for the imposition of discipline against Respondent.
21 Respondent, Roger D. Scott, appeared in person and was
22 represented by Charles Buri, Attorney at Law. The Board is
23 represented by Michael Harrison, Assistant Attorney General.

24 Having heard the testimony of the witnesses, having read
25 and considered the exhibits offered and admitted into evidence,
26 having heard argument of the parties and being fully advised in

1 the premises, Hearing Officer Merkow submitted proposed findings
2 of fact, conclusions of law and recommendation to the Board. The
3 recommendations of Hearing Officer Merkow were duly considered by
4 the Board; and, now therefore the Board expressly orders the
5 issuance of the following Findings of Fact, Conclusions of Law,
6 and Order.

7 FINDINGS OF FACT

8 1. Respondent is the holder of License No. 1318,
9 authorizing him to engage in the practice of osteopathic medicine
10 in the State of Arizona.

11 2. Respondent has maintained a general practice for
12 osteopathic medicine in Parker, Arizona since approximately
13 1974.

14 3. In connection with his practice, Respondent has
15 used controlled substances such as Demerol, Versed, Xanax, Valium
16 and Halcion. Respondent was registered with the Drug Enforcement
17 Agency, permitting him to purchase such controlled substances.
18 Respondent did not keep an inventory of each drug's purchases and
19 usage, however, he retained invoices from drug distributors to
20 show the quantity of each drug purchased from time to time.

21 4. Demerol (meperidine) is a Schedule II controlled
22 substance which is an analgesic and sedative with central nervous
23 system actions similar to morphine, used for moderate to severe
24 pain, preoperative medication, support of anesthesia and
25 obstetrical analgesia. Meperidine "can produce drug dependence of
26 the morphine type and therefore has the potential for being

1 abused. Psychic dependence, physical dependence and tolerance
2 may develop upon repeated administration of meperidine and it
3 should be prescribed and administered with the same degree of
4 caution appropriate to the use of morphine."

5 5. All of the controlled substances purchased by
6 Respondent were kept in a private office to which none of
7 Respondent's patients had access. Some of the drugs were kept on
8 shelves in the private office and some of the drugs were locked
9 up in a floor safe in the private office. Additionally,
10 Respondent kept some of the drugs in a black bag which he took
11 with him when he made house calls.

12 6. Respondent maintained sole control of the Demerol
13 he purchased and the Demerol was kept in a combination-locked
14 floor safe in a private office. In order to access the floor
15 safe, one needed to remove the bottom drawer of a file cabinet
16 and illuminate the safe in order to turn the combination lock.
17 No one other than Respondent had the combination to the floor
18 safe, although Respondent had the combination written in a small
19 red book which he carried with him.

20 7. In 1982, Respondent was treated at St. Luke's
21 Behavioral Health Center in Phoenix for alcohol abuse. After two
22 weeks, Respondent returned to Parker and began participating in
23 Alcoholics Anonymous meetings.

24 8. In 1983, Respondent was treated at West Center in
25 Tucson for substance abuse because he was addicted to Demerol.
26 After two weeks, Respondent returned to Parker where he began to

1 participate in Narcotics Anonymous meetings in Lake Havasu City.
2 Respondent also continued to attend AA meetings.

3 9. Since 1983, Respondent has not been treated for any
4 substance abuse or chemical dependency. Since 1983, Respondent
5 has not participated in any psychiatric treatment or
6 psychological counseling.

7 10. Some time in the late 1970s, Respondent treated one
8 [REDACTED] was fifteen years old, in 1981, she overdosed on
9 alcohol and drugs and was admitted to Parker Community Hospital.
10 Respondent was listed as her primary care physician and a copy of
11 the hospital record was sent to him where it was included in
12 [REDACTED]'s chart.

13 11. Sometime in 1991, Respondent again met [REDACTED]
14 while [REDACTED] was working in a bank in Parker. At that time,
15 [REDACTED] had been married and divorced and was known as [REDACTED]
16 [REDACTED] Respondent offered her a position in his office and
17 [REDACTED] accepted. She began working for Respondent as a
18 medical assistant in July 1991.

19 12. At the time [REDACTED] started working in
20 Respondent's office, Respondent was cohabiting with one [REDACTED]
21 [REDACTED] who had recently stopped working in Respondent's office.

22 13. Shortly after [REDACTED] began working in
23 Respondent's office, she and Respondent began having a romantic
24 affair. They engaged in sporting activities together and they
25 traveled together. Respondent continued living with [REDACTED]
26 [REDACTED] while he and [REDACTED] were romantically involved.

1 14. In October 1991, [REDACTED] had a breast
2 augmentation performed in Phoenix. She was given Percocet for
3 her pain. However, she later learned that she was allergic to
4 Percocet and she developed a rash when she ingested the
5 medication. [REDACTED] approached Respondent about her
6 allergic reaction together with the continuing pain from the
7 operation and Respondent gave [REDACTED] an injection of Demerol
8 which injection was noted in [REDACTED]' medical chart.

9 15. In August, 1991, one "J.K.", a female friend of
10 [REDACTED], became a patient of Respondent's. J.K. was treated in
11 August 1991 and in September 1991 for spinal manipulations by
12 Respondent. On each occasion, Respondent made chart entries
13 about J.K.'s treatments.

14 16. In October or November 1991, [REDACTED] and
15 J.K. attended a football game in Tempe and afterwards went
16 drinking in the Phoenix area. After they returned to Parker,
17 J.K. complained to [REDACTED] that she, J.K., would feel badly in
18 the morning due to the drinking and [REDACTED] offered to call
19 Respondent. [REDACTED] called Respondent who arrived at [REDACTED]
20 apartment at approximately 2:00 a.m. J.K. told Respondent "I
21 don't feel well, I don't feel well at all." According to the
22 testimony of J.K., Respondent gave her an intravenous injection
23 of Demerol after preparing the injection from the contents of his
24 black bag. [REDACTED] also told Respondent that she was ill and
25 Respondent gave her two injections, one in the buttocks and one
26 in a vein. J.K. testified that she believed that one of the

1 injections into [REDACTED] was also Demerol. Respondent did
2 not complete any medical chart for the injection he gave J.K. or
3 the injections he gave to [REDACTED].

4 17. Sometime thereafter in November 1991, J.K., who was
5 in the company of M.T., a male traveling companion, arrived in
6 Parker on their way to Las Vegas. They went to Respondent's
7 office in the latter part of the afternoon as M.T. had a mole on
8 his neck which he wished to have removed. Respondent did not
9 create any medical records for M.T. regarding this procedure and
10 he did not enter the wart removal into J.K.'s chart. [REDACTED]
11 [REDACTED] J.K. and M.T. then left Respondent's office and, sometime
12 later, arrived at [REDACTED] apartment.

13 18. After [REDACTED] J.K. and M.T. arrived at [REDACTED]
14 apartment, M.T. was complaining about the pain in his neck from
15 the mole removal. [REDACTED] called Respondent and
16 Respondent came to [REDACTED] apartment. Respondent
17 attended to M.T. and gave him an injection which J.K. believed to
18 be Demerol. After attending to M.T., Respondent gave J.K. an
19 injection of Demerol which J.K. said had no effect on her.
20 Respondent then injected her a second time with what J.K.
21 believed was Demerol. J.K. knew that Respondent had administered
22 Demerol as she was able to recognize the effects of Demerol from
23 prior administrations by other physicians. [REDACTED] also
24 received two injections, one in the buttocks and one in a vein.
25 J.K. believed that one of the injections into [REDACTED] was
26 Demerol. Respondent did not complete any medical chart for the

1 injections he gave to J.K., the injection he administered to M.T.
2 or the injections he administered to [REDACTED]

3 On December 26, 1991, Respondent and [REDACTED]
4 married in Las Vegas. Two days earlier, Respondent told [REDACTED]
5 [REDACTED] that he was going to marry [REDACTED] and that she
6 needed to take her possessions and move out of his house.

7 20. On December 29, 1991, [REDACTED] complained of
8 stomach pain. Respondent administered an injection of Demerol to
9 [REDACTED] in response to that complaint. No chart entries
10 were made reflecting the treatment performed by Respondent on
11 that date. Because the Demerol did not have any analgesic
12 effect, Respondent took [REDACTED] to the Parker Community
13 Hospital.

14 21. [REDACTED] continued working in Respondent's
15 office following the marriage and she had access to the private
16 room where Respondent stored medicines. On one occasion, [REDACTED]
17 [REDACTED] was seen with Xanax as she offered the medication to
18 another employee in the office.

19 22. Starting some time in late January 1992, Respondent
20 began giving regular intravenous injections of a combination
21 Demerol and Versed to [REDACTED] in order to enhance their
22 sexual relations. Respondent also provided oral Valium regularly
23 to [REDACTED]. In addition to the drugs which she was
24 receiving, [REDACTED] routinely drank alcoholic beverages,
25 either in combination with or as a substitute for the drugs she
26 was receiving from Respondent.

1 23. In March 1992, ██████ admitted herself to
2 Serenity House, a treatment facility in Yuma, Arizona. She
3 remained there for one week, after which she returned to the
4 Parker area and resided in her parents' home. ██████ told her
5 mother that she had entered the Yuma facility because of her
6 Demerol and alcohol use. Prior to her hospitalization in Yuma,
7 ██████ had seemed different to her mother as ██████ appeared to
8 be "grumpy" and had not visited the family, although she kept in
9 telephone contact.

10 24. Following her return from Yuma, Respondent went to
11 the ██████ house, asking ██████ to return home. While there,
12 ██████, ██████ mother, implored Respondent to no allow
13 ██████ to be near drugs and Respondent agreed.

14 25. While ██████ and Respondent were separated, on two
15 occasions in the hearing of ██████, while Respondent was
16 trying to get ██████ to come home, ██████ brought up the
17 subject of receiving shots. On one occasion, Respondent was
18 heard to reply: "I never heard you complain about it" and on
19 another occasion, Respondent was heard to reply: "You never say
20 no about it."

21 26. ██████ returned to Respondent's home in early
22 April 1992.

23 27. At approximately 10:00 a.m. on May 2, 1992, ██████
24 ██████ arrived at Respondent's home in the company of ██████ two
25 minor children (from her previous marriage) as ██████ was
26 expected to visit with the children that day. When ██████

1 arrived, she saw [REDACTED] outside of the house, without shoes and
2 in a disheveled appearance. [REDACTED] told her mother that "he
3 just beat the shit out of me" and that she was trying to regain
4 entry into the house in order to remove her possessions. [REDACTED]
5 [REDACTED] entered the house with [REDACTED] and went upstairs with her.
6 As they came downstairs again, [REDACTED] challenged Respondent to
7 tell her mother about the shots that he had been giving her and
8 she showed her arms, wrists and the backs of her legs to her
9 mother. Respondent said that he had given the shots because he
10 loved [REDACTED] and it was the only way to keep her there.

11 28. While standing in the house, [REDACTED] announced that
12 she felt as though she was going to to into convulsions which
13 [REDACTED] believed meant that she was withdrawing from drugs.
14 Respondent went upstairs and then returned downstairs shortly
15 thereafter. As [REDACTED] and [REDACTED] were leaving Respondent's
16 house to return to the [REDACTED] residence, he told [REDACTED] and [REDACTED]
17 [REDACTED] that he had telephoned a Valium prescription for [REDACTED]
18 into a pharmacy in Lake Havasu City. Respondent did not complete
19 a patient record reflecting the telephone prescription he created
20 for [REDACTED]

21 29. After [REDACTED] left with [REDACTED], they went to the
22 pharmacy in Lake Havasu City where a prescription for diazepam, 5
23 mg. was waiting for "[REDACTED]." [REDACTED] purchased the
24 prescription and then went to her mother's house.

25 30. In the late afternoon hours, [REDACTED] had told her
26 mother that she, [REDACTED], was going back to Respondent's house in

1 order to collect her remaining possessions. [REDACTED] offered to
2 go with [REDACTED], which offer [REDACTED] declined.

3 31. After arriving at Respondent's house, [REDACTED] and
4 Respondent began a verbal altercation which then became
5 physical. [REDACTED] was either struck or pushed by Respondent such
6 that she incurred injuries to her neck, shoulder, chest area and
7 rib. [REDACTED] ran outside of the house, yelling for someone to
8 call the police.

9 32. The police came to the house and [REDACTED] was taken
10 by ambulance to the emergency room at Parker Community Hospital.
11 Respondent was arrested and taken to jail.

12 33. Upon arrival at the Parker Community Hospital,
13 numerous puncture sites were observed on [REDACTED] described by
14 hospital personnel as "needle tracks." These marks appeared on
15 [REDACTED] hands, wrists, arms, legs and ankles and the sites
16 showed evidence of bruising. Photographs of the sites were taken
17 and, when asked how the marks appeared on her, [REDACTED] told
18 the hospital personnel that her husband had been giving her shots
19 to "keep her home." During her visit to the emergency room, a
20 prescription bottle containing Valium in the name of "[REDACTED]"
21 [REDACTED] was recovered from her purse and given to Deputy Joe
22 Escorza of the La Paz County Sheriff's Office.

23 34. [REDACTED] was transferred to the LARC Center in
24 Phoenix for drug abuse treatment following her treatment at the
25 emergency room of Parker Community Hospital.

1 35. Upon admission to the LARC Center on May 3, 1992
2 for detoxification treatment regarding her abuse of Demerol,
3 Versed, Halcion, Xanax, Valium and alcohol, [REDACTED] told
4 the medical staff that she had been using Demerol, Versed and
5 Valium for the past seven to eight months, that her most recent
6 usage was at 10:00 a.m. on May 2, 1992 and that her husband had
7 been giving her the drugs on a regular basis.

8 36. On May 3, 1992, [REDACTED] was visited at LARC
9 by the Board's investigator, Jim Clubine, in the company of Eric
10 Hill, DEA investigator. [REDACTED] stated to them that, shortly
11 after the marriage, she was experiencing problems with sex and
12 that Respondent began injecting her with Demerol and Versed in
13 order to facilitate sexual relations. [REDACTED] repeated her
14 statements that Respondent has been the source of Demerol and
15 Versed which she had been receiving intravenously. [REDACTED]
16 showed Clubine and Hill various injection sites on her hands,
17 arms and feet, all of which showed bruising. [REDACTED] also
18 told them that the fight on May 2 ensued after she had told
19 Respondent that she wanted a divorce because he was domineering
20 and didn't like the friends with whom she was socializing.

21 37. Also, on May 3, 1992, the La Paz County Sheriff's
22 Office executed a search warrant at Respondent's office. They
23 removed [REDACTED] patient records, bottles of morphine,
24 Demerol and Versed from the floor safe, bottles of diazepam from
25 a shelf in Respondent's private room, a bottle of Versed from a
26

1 shelf, a bottle of Halcion in a refrigerator, boxes of Halcion
2 and Xanax in the x-ray room and drug purchase invoices.

3 38. On May 5, 1992, Investigator Clubine, in the
4 company of Eric Hill, visited Respondent in his Parker office.
5 Respondent told them that he was being "set up" by [REDACTED] as he
6 did not know of her drug use and he denied injecting her with any
7 drugs. When asked why he had not noticed the injection sites on
8 her body, Respondent stated that, because [REDACTED] was dark
9 complected, he could not detect any sites. Respondent showed
10 Clubine and Hill the floor safe in which the Demerol was kept and
11 he showed them the method he used to open the safe. When asked
12 how [REDACTED] could have obtained Demerol to inject herself,
13 Respondent stated that she must have learned the combination to
14 the safe at some time when she was looking over his shoulder.
15 Respondent told Clubine and Hill that he did not have an ongoing
16 inventory for controlled substances and that he relied on
17 invoices to keep track of drug purchases.

18 39. While at the LARC Center, [REDACTED] agreed to
19 place a surreptitious telephone call to Respondent, which call
20 would be tape recorded. On May 7, 1992, [REDACTED] telephoned
21 Respondent at his office and she spoke to him while the
22 conversation was tape recorded with equipment owned by the La Paz
23 County Sheriff's Office. During the course of that telephone
24 call, [REDACTED] stated: "There you go again, not taking part in
25 anything. Not taking part of anything, not taking part of the
26 drugs that you were giving me, I know I asked for it David, I

1 know I would ask for it but it's not fair that you just blame it
2 all on me, it's not fair," to which Respondent replied: "I don't
3 blame it all on you okay?"

4 40. On that same day, May 7, 1992, [REDACTED] placed
5 another surreptitious telephone call to Respondent, which
6 telephone call was likewise tape recorded. In the course of that
7 telephone call, [REDACTED] asked Respondent "I mean if we go
8 to court, are you going to admit to doing this to me?" to which
9 Respondent answered "Well, yeah, sure. I'm going to take
10 responsibility." In another part of the conversation, [REDACTED]
11 [REDACTED] asks: "Well, if you go to court and tell them that you were
12 giving me shots, what are they going to do?", to which Respondent
13 replied "Probably put me away."

14 41. [REDACTED] remained at the LARC Center until
15 approximately May 13, after which she returned to the Parker
16 area.

17 42. On May 21, 1992, the Board discussed Respondent and
18 concluded that substantial evidence existed to show spousal abuse
19 by Respondent and to show that Respondent had been administering
20 injections of Demerol to his wife which led the Board to wonder
21 whether Respondent was capable of safely engaging in the practice
22 of medicine. The Board ordered Respondent to appear for an
23 in-patient psychiatric evaluation at Phoenix Camelback Hospital,
24 which evaluation Respondent was ordered to pay for himself.
25
26

1 43. The May 2 criminal charges on which Respondent was
2 arrested were reduced and Respondent entered a plea of "no
3 contest" to a charge of domestic violence.

4 44. Respondent entered Camelback Hospital on June 15,
5 1992. He was psychologically tested using standardized tests
6 such as the Minnesota Multiphasic Personality Inventory (MMPI),
7 Rorschach Inkblot Technique, Wechsler Adult Intelligence
8 Scale-Revised (WAIS-R), the Sexual Risk Assessment and the
9 Multiphasic Sex Inventory Profile. Respondent also completed two
10 social histories, one computerized and one manually. Respondent
11 was also interviewed by Janice Dorn, M.D., psychiatrist. A
12 complete physical examination was also performed.

13 45. After Respondent's five day stay at Camelback
14 Hospital, Janice Dorn, the supervising physician for the
15 evaluation, concluded, on a preliminary basis, that Respondent
16 suffers from an Axis II personality disorder of mixed
17 narcissistic/anti-social personality type with indications of
18 sexual addiction. She concluded that Respondent has a "high
19 potential for socially-intrusive or inappropriate behavior." Dr.
20 Dorn's preliminary report was delivered to the Board on July 1,
21 1992.

22 46. On July 2, 1992, the Board met to consider Dr.
23 Dorn's report and conclusions. The Board concluded that
24 substantial evidence existed to show that Respondent had engaged
25 in unprofessional conduct and the Board ordered that Respondent's
26 privileges for prescribing, dispensing and/or administering

1 controlled substances be immediately suspended and further
2 ordered Respondent to immediately surrender his DEA registration
3 certificate as well as surrender any controlled substances in his
4 possession or control.

5 47. On July 22, 1992, Dr. Janice Dorn submitted a more
6 complete report to the Board regarding Respondent's evaluation at
7 Camelback Hospital. In her July 22 report, Dr. Dorn detailed
8 Respondent's medical history, social history, family history,
9 developmental history, educational history, marital history,
10 avocational interests, legal history, psychosexual history and
11 occupational history. Her report then featured the mental status
12 examination she performed and, after reporting these matters,
13 developed a summary of positive findings, which findings were: 1)
14 Dr. Scott appears to be in good health medically in terms of
15 laboratory values, electrocardiogram, and electroencephalogram.
16 There is no evidence for active drug or alcohol abuse; 2) Dr.
17 Scott does not manifest a major mental illness such as
18 depression, manic depressive illness, or schizophrenia; 3) Dr.
19 Scott exhibits a personality disorder characterized by narcissism
20 with narcissistic exhibitionist and antisocial (psychopathic)
21 tendencies. These are particularly notable in the areas of
22 sexual judgment and conduct; 4) Defense mechanisms employed by
23 Dr. Scott include projection, denial, and distortion
24 (narcissistic defenses) and acting out (an immature defense); 5)
25 neuropsychological profile suggests a highly defended individual
26 with a personality disorder involving socially-intrusive

1 behavior, anger, resentment, and somatic concerns. There is a
2 high potential for socially inappropriate behavior; 6) There is
3 confusion relating to inappropriate sexual choices. He has great
4 difficulty resisting impulses towards women he finds sexually
5 attractive. This leads him to behavior that is risky and
6 potentially dangerous to himself and others; 7) Repeated concern
7 has been inconsistency regarding the answers to questions on the
8 sexual assessment. His reliability as a self-reporter was judged
9 to be so poor that it was difficult to evaluate the full degree
10 of compulsive or deviate sexuality. He has used sex for pure
11 excitement and in a professionally unethical manner.

12 48. Dr. Dorn recommended that Respondent undergo
13 inpatient treatment for "sexual addiction" and outpatient
14 psychotherapy "to deal with his narcissistic and psychopathic
15 issues." She also recommended participation in a 12-step program
16 and that the Board re-evaluate the situation in six months.

17 49. On July 23, 1992, Respondent caused to be prepared
18 an Affidavit of [REDACTED] in which [REDACTED] recanted
19 allegations that Respondent inappropriately and intentionally
20 administered injections of controlled substances to her. The
21 affidavit was signed by [REDACTED] for presentation to the
22 Board.

23 50. On July 24, 1992, Respondent, together with his
24 attorney, appeared before the Board for an informal interview.
25 At that time, the affidavit signed by [REDACTED] the day
26 before was furnished to the Board.

1 51. Sometime prior to Respondent's appearance before
2 the Board, he initiated a proceeding in the Yuma County Superior
3 Court to annul his marriage to [REDACTED].
4 Separately, [REDACTED] filed an action in court for
5 dissolution of the parties' marriage. Both of these actions were
6 pending at the time of Respondent's appearance.

7 52. The Board's informal interview reviewed Dr. Dorn's
8 report with Respondent. Respondent was offered a stipulated
9 order which included mental health treatment in accordance with
10 Dr. Dorn's recommendations. Respondent agreed to enter into a
11 consent order with the Board.

12 53. A stipulated order was prepared and offered to
13 Respondent for his signature. Respondent declined to accept the
14 terms of the Consent Order.

15 54. Some time in August 1992, Respondent drove with
16 [REDACTED] to Algodones, Mexico. At that location [REDACTED] saw one
17 [REDACTED], an acquaintance of Respondent's, and [REDACTED]
18 received prescriptions for Valium and Halcion, which
19 prescriptions were filled in Mexico.

20 55. On September 2, 1992, the Yuma County Superior
21 Court entered a Decree of Annulment of the marriage of Respondent
22 and [REDACTED].

23 56. On September 3, 1992, the Board entered an order
24 whereby Respondent's license to practice medicine was suspended
25 for a minimum of six months, Respondent was ordered to undergo
26

1 inpatient psychiatric treatment, followed by outpatient
2 treatment.

3 57. On September 21, 1992, Respondent petitioned for
4 rehearing and reconsideration of the Board's order.

5 58. On September 26, 1992, Respondent and [REDACTED]
6 [REDACTED] re-married.

7 59. On October 1, 1992, the Board voted to stay the
8 suspension of Respondent's prescription privileges for Class II
9 drugs pending a determination of the request for
10 reconsideration.

11 60. On November 13, 1992, the Board granted the Motion
12 for Reconsideration, rescinded the order entered on September 3,
13 1992 and directed that a formal hearing be undertaken. The Board
14 further reinstated its summary suspension order of July 2, 1992.

15 61. On December 7, 1992, Respondent and [REDACTED]
16 separated. They have not cohabitated since that time.

17 62. A Complaint and Notice of Hearing was issued by the
18 Board, setting February 25, 1993 as the date for hearing. The
19 hearing was postponed and rescheduled for March 29, 1993 at which
20 time Respondent appeared and testified.

21 63. At the hearing, Respondent denied that he had
22 injected his wife, [REDACTED], with any Demerol or Versed
23 following their marriage on December 26, 1991, except for one
24 Demerol injection given on December 29, 1991.

25 64. At the hearing, Respondent denied dispensing or
26 providing any Valium, Xanax or Halcion to [REDACTED] except

1 or one occasion when he ordered a Valium prescription for her on
2 May 2, 1992.

3 65. At the hearing, Respondent admitted to giving
4 [REDACTED] an injection of Demerol on December 29, 1991 as
5 [REDACTED] had been complaining about stomach pain.

6 66. At the hearing, Respondent admitted that he did not
7 create any patient record entries in [REDACTED]
8 medical records for any medication he administered or prescribed
9 for her following the marriage in December 1991.

10 67. At the hearing, Respondent testified that he
11 believed that [REDACTED] was stealing drugs, including
12 Demerol, from Respondent's office. Respondent also testified
13 that he had never apprehended [REDACTED] taking any drugs from his
14 office.

15 68. At the hearing, Respondent reiterated his belief
16 that [REDACTED] had obtained the combination to his floor
17 safe, either by noting the combination in the red book in which
18 the combination was written or by looking over his shoulder while
19 he was opening the safe.

20 69. At the hearing, Respondent testified that he was
21 unaware of the extent of [REDACTED] drug use before their
22 marriage, that he saw no signs of addiction in her until May 2,
23 1992 and that, due to her dark complexion, he could not have
24 noticed track marks on her body.

25 70. At the hearing, Respondent testified that, on May
26 2, 1992, he and [REDACTED] engaged in a verbal and physical

1 alteration after [REDACTED] had come home from socializing late at
2 night, that, when Respondent discovered tracks on her from being
3 "all shot up", the two argued about [REDACTED] entering
4 rehabilitation and, when [REDACTED] said that she needed something
5 until she could get into treatment, Respondent telephoned a
6 prescription for Valium into a pharmacy under the name of
7 "[REDACTED]".

8 71. At the hearing, Respondent testified that he
9 injected M.T. with 3 milligrams of Versed, not Demerol, when he
10 administered medication in [REDACTED] apartment. See
11 paragraphs 17, 18 herein. He further testified that he did not
12 create any patient records for M.T. because it was at the end of
13 the day and he wanted to leave the office. He further testified
14 that he did not bill M.T. for the mole removal he performed.

15 72. At the hearing, Respondent testified that he
16 injected Versed, not Demerol, into J.K. on the two occasions when
17 he administered medications in [REDACTED] apartment. See
18 paragraphs 16, 17, and 18 herein. He further testified that he
19 did not create any patient records for administration of such
20 medications because he was out of the office at the time of
21 administration. Respondent testified that on the first occasion
22 he provided an injection of 5 milligrams of Versed to J.K. And,
23 on the second occasion at the apartment of [REDACTED]
24 Respondent provided two injections to J.K. in the amount first of
25 2 milligrams and then a "bolus" injection (i.e., rapid injection)
26 of 3 milligrams.

1 73. The testimony of the Board's expert witness, Janice
2 Dorn, M.D., Ph.D., established that Versed is a DEA schedule IV
3 prescription drug which is primarily used for anesthesia; and,
4 Respondent's use of Versed (as described by him) was not an
5 appropriate and safe drug to use for treating the alleged
6 symptoms of pain described by patients J.K. and M.T. Assuming
7 that Respondent actually injected Versed rather than Demerol,
8 such conduct was just as medically inappropriate and dangerous to
9 the patients' health (and perhaps even greater) as the injections
10 of Demerol described by J.K.

11 74. Evidence at the hearing shows that Respondent
12 regularly makes house calls to patients and is a good
13 diagnostician. Further, testimony given at the hearing from
14 Parker area residents shows that they believe that Respondent's
15 services are needed in the community.

16 75. Evidence at the hearing showed that Respondent was
17 infatuated with [REDACTED], that he was "overwhelmed" by her
18 beauty, charm and intelligence, that "if she wanted the moon, he
19 would have given it to her" and that "he spoiled her rotten".

20 76. At the hearing, one [REDACTED],
21 psychiatrist, testified on Respondent's behalf and opined that
22 there was insufficient and limited information available for Dr.
23 Dorn to have concluded that Respondent suffers from a personality
24 disorder, however, there are suggestions in the records that may
25 show that Respondent suffers from a bi-polar disorder.
26

1 77. There is insufficient evidence in the record of
2 this matter to show that in 1991 or 1992 Respondent personally
3 used any alcohol or drugs.

4 78. There is insufficient evidence in the record of
5 this matter to show that Respondent has practiced medicine while
6 in a substance-impaired state.

7 79. There is no evidence in the record of this matter
8 to show that Respondent is not physically able to safely engage
9 in the practice of medicine.

10 80. There is insufficient evidence in the record of
11 this matter to show that Respondent's collection of invoices and
12 his charting of administration or dispensing of controlled
13 substances in patient charts is an adequate inventory system for
14 controlled substances.

15 81. There is insufficient credible evidence in the
16 record of this matter to show that Respondent provided,
17 administered or dispensed cocaine or amphetamines to [REDACTED]
18 [REDACTED] at any time.

19 82. There is insufficient credible evidence in the
20 record of this matter to show that, after July 2, 1992,
21 Respondent administered any Demerol or Versed to [REDACTED].

22 83. There is insufficient credible evidence in the
23 record of this matter to show that Respondent illegally
24 administered any narcotic drugs, prescription drugs or dangerous
25 drugs to himself between August 1992 and January 1993.

26

1 84. There is sufficient evidence in the record of this
2 matter to show that Respondent administered Versed to M.T.
3 following his mole removal in November 1991, i.e., Respondent's
4 testimony.

5 85. There is sufficient evidence in the record of this
6 matter to show that Respondent administered Versed instead of
7 Demerol to J.K in either October or November 1991, i.e.
8 Respondent's testimony.

9 86. There is insufficient medical or scientific
10 evidence in the record of this matter to show that Respondent
11 suffers from a sexual addiction.

12 87. There is sufficient medical and scientific evidence
13 in the record of this matter to show that Respondent suffers from
14 a personality disorder, represented by narcissistic and
15 anti-social behaviors, i.e., report and testimony of Janice Dorn,
16 M.D., Ph.D.

17 88. There is insufficient evidence in the record of
18 this matter to show that [REDACTED] had an ability to open
19 Respondent's floor safe or to show that she had access to the
20 contents of such safe.

21 89. There is insufficient credible evidence in the
22 record of this matter to show that [REDACTED] stole or
23 converted to herself any medications from Respondent's office or
24 from Respondent's black bag.

25 90. There is insufficient credible evidence in the
26 record of this matter to show that, on December 29, 1991, an

1 emergency existed with respect to the medical condition of
2 [REDACTED] which justified the administration of Demerol to
3 her by Respondent.

4 91. There is no evidence in the record of this matter
5 to show that any other physician was unavailable within 50 miles
6 from Parker on December 29, 1991 who could have provided medical
7 care, including prescribing controlled substances, to [REDACTED]
8 [REDACTED]

9 92. There is no evidence in the record of this matter
10 to show that another physician was unavailable within 50 miles of
11 Parker on May 2, 1992 from whom [REDACTED] could have obtained
12 a prescription for Valium.

13 93. The anti-marital fact privilege which is recognized
14 in A.R.S. § 12-2231 is inapplicable to communications between
15 husband and wife involving acts which constitute violations of
16 law or professional licensing statutes.

17 94. The anti-marital fact and communication privileges
18 are inapplicable to any effort to procure unlawfully a
19 prescription-only drug, dangerous or narcotic drug or to procure
20 the administration of such drug.

21 95. The anti-marital communication privilege which is
22 recognized in A.R.S. § 12-2232 is inapplicable to communications
23 between husband and wife during any period of time when the
24 spouses are separated with the intent to dissolve their marriage.

1 96. The anti-marital communication privilege is
2 inapplicable to any communications made in the presence of third
3 parties or overheard by third parties.

4 97. Both the anti-marital fact privilege and the
5 anti-marital communications privilege are inapplicable to acts
6 and conversations regarding abuse and/or exploitation of one
7 spouse by the other.

8 CONCLUSIONS OF LAW

9 1. This matter is within the jurisdiction of the
10 Arizona Board of Osteopathic Examiners in Medicine and Surgery
11 pursuant to A.R.S. § 32-1801, et seq. and the regulations
12 promulgated thereunder.

13 2. Respondent's failure to create patient records for
14 M.T. after removing a mole from M.T.'s neck and after
15 administering an injection of a drug on the same evening,
16 constitutes a violation of A.R.S. § 32-1854(21).

17 3. Respondent's failure to create patient records for
18 J.K. after removing a wart from her finger and after
19 administering an injection of a drug on the same evening,
20 constitutes a violation of A.R.S. § 32-1854(21).

21 4. Respondent's failure to create patient records for
22 J.K. when, after J.K. and [REDACTED] returned to Parker from
23 the Phoenix area where they had been drinking alcohol and
24 Respondent was called to [REDACTED] apartment where he
25 administered an injection of Demerol and/or Versed to J.K.,
26 constitutes a violation of A.R.S. § 32-1854(21).

1 5. Respondent's failure to create patient records for
2 ██████████ when, on two occasions in October and November
3 1991, he administered injections to her in the presence of J.K.,
4 constitute violations of A.R.S. § 32-1854(21).

5 6. Respondent's failure to create patient records for
6 ██████████ when, on December 29, 1991, he administered an
7 injection of Demerol and/or Versed to her, constitutes a
8 violation of A.R.S. § 32-1854(21).

9 7. Respondent's failure to create patient records for
10 ██████████ during 1992 when he administered Demerol to her on
11 various occasions, constitute violation of A.R.S. § 32-1854(21).

12 8. Respondent's failure to create patient records for
13 ██████████ when, on May 2, 1992, he telephonically ordered a
14 prescription for Valium for her under the name of ██████████
15 ██████████, constitutes a violation of A.R.S. § 32-1854(21).

16 9. Respondent's actions in prescribing, through
17 administration, a controlled substance, namely Demerol, to
18 ██████████ on December 29, 1991, in the absence of an
19 emergency and where other physicians were available within fifty
20 miles to treat ██████████, constitutes a violation of A.R.S.
21 § 32-1854(23).

22 10. Respondent's actions in prescribing Valium for
23 ██████████ on May 2, 1992 when other physicians were available
24 within fifty miles to treat ██████████, constitutes a
25 violation of A.R.S. § 32-1854(23).

1 11. Respondent's action in administering Demerol or
2 Versed to J.K. on two occasions in October and November 1991,
3 whereby Demerol or Versed was given for minor pain or headache,
4 constitute violations of A.R.S. § 32-1854(5), because such
5 administration was for other than accepted therapeutic purposes.

6 12. Respondent's actions in administering Demerol or
7 Versed to J.K. for minor pain or headache on two occasions in
8 October and November 1992, constitute violations of A.R.S.
9 § 32-1854(19) because such administrations of Demerol were
10 practices which reasonably might constitute a danger to the
11 health, welfare and safety of J.K.

12 13. Respondent's actions in administering Demerol
13 and/or Versed to [REDACTED] after December 26, 1991 until
14 approximately May 2, 1992, whereby Respondent administered
15 Demerol to enhance sexual relations between the two and where
16 Respondent administered Demerol for the purpose of keeping
17 [REDACTED] at home constitute violations of A.R.S.
18 § 32-1854(5) because such administration was for other than
19 accepted therapeutic purposes.

20 14. Respondent's actions in administering Demerol
21 and/or Versed to [REDACTED] after December 26, 1991 until
22 approximately May 2, 1992, whereby Respondent administered
23 Demerol and/or Versed to enhance sexual relations between the two
24 and where Respondent administered Demerol and/or Versed for the
25 purpose of keeping [REDACTED] at home constitute violations of
26

1 A.R.S. § 32-1854(19) as such administration might constitute
2 danger to the health, safety and welfare of [REDACTED]

3 15. Respondent's actions in dispensing and
4 administering prescription-only and/or narcotic drugs to J.K. and
5 [REDACTED] during 1991 and 1992, without compliance
6 with the provisions of A.R.S. § 32-1871 regarding entry of such
7 dispensing into the patients' records and maintenance of an
8 ongoing inventory of drugs, constitute violations of A.R.S.
9 § 32-1954(40).

10 16. Respondent's diagnosis of an Axis II personality
11 disorder, characterized by narcissism and anti-social behavior,
12 constitutes a basis for Respondent's violation of A.R.S.
13 § 32-1854(19) as his conduct and condition does or might impair
14 his ability to safely practice medicine.

15 17. There is insufficient medical or scientific
16 evidence in the record of this matter to show that Respondent
17 suffers from a sexual addiction.

18 18. There is no evidence in the record of this matter
19 to show that Respondent is not physically able to safely engage
20 in the practice of medicine.

21 19. There is insufficient evidence in the record of
22 this matter to show that in 1991 or 1992 Respondent personally
23 used any alcohol or drugs.

24 20. There is insufficient evidence in the record of
25 this matter to show that Respondent has practiced medicine while
26 in a substance-impaired state.

1 21. There is insufficient credible evidence in the
2 record of this matter to show that Respondent provided,
3 administered or dispensed cocaine or amphetamines to [REDACTED]
4 [REDACTED] at any time.

5 22. There is insufficient credible evidence in the
6 record of this matter to show that, after July 2, 1992,
7 Respondent administered any Demerol or Versed to [REDACTED].

8 23. There is insufficient credible evidence in the
9 record of this matter to show that Respondent illegally
10 administered any narcotic drugs, prescription drugs or dangerous
11 drugs to himself between August 1991 and January 1993.

12 24. There is insufficient credible evidence in the
13 record of this matter to show that [REDACTED] had an ability
14 to open Respondent's floor safe or to show that she had access
15 the contents of such safe.

16 25. There is insufficient credible evidence in the
17 record of this matter to show that [REDACTED] stole or
18 converted to herself any medications from Respondent's office or
19 from Respondent's black bag.

20 26. The anti-marital fact privilege which is recognized
21 in A.R.S. § 12-2231 is inapplicable to communications between
22 husband and wife involving acts which constitute violations of
23 law or statutes.

24 27. The anti-marital fact and communication privileges
25 are inapplicable to any effort to procure unlawfully a
26

1 prescription-only drug, dangerous or narcotic drug or to procure
2 the administration of such drug, pursuant to A.R.S. § 13-3412 C.

3 28. The anti-marital communication privilege which is
4 recognized in A.R.S. § 12-2232 is inapplicable to communications
5 between husband and wife during any period of time when the
6 spouses are separated with the intent to dissolve their marriage.

7 29. The anti-marital is inapplicable to any
8 communications made in the presence of third parties or overheard
9 by third parties.

10 30. Both the anti-marital fact privilege and the
11 anti-marital communications privilege are inapplicable to acts
12 and conversations regarding abuse and/or exploitation of one
13 spouse by the other.

14 **ORDER**

15 Based upon the Findings of Fact and Conclusions of Law
16 set forth above, IT IS HEREBY ORDERED that:

17 (1) Respondent/Scott's license is **suspended for no less**
18 **than one year**; and, Respondent/Scott shall deliver to
19 the Board's office within ten (10) days of the date of
20 this Order all documents reflecting that he is a
21 licensee of the Board; and,

22 (2) Respondent/Scott while under suspension shall
23 continue to satisfy all continuing education
24 requirements of the Board, plus an additional twenty
25 (20) hours per year in the area of substance abuse and
26 prescribing of controlled substances; and,

1 (3) Respondent/Scott shall pay for the costs associated
2 with the Board's administrative hearing for the formal
3 complaint (e.g., costs of the court reporter,
4 transcripts, expert witness fees, hearing officer fee,
5 and the Board's expenses for conducting its hearing
6 proceeding) within thirty (30) days of the effective
7 date of the Board's Order or within ten (10) days of
8 receiving an itemized statement of costs from the
9 Board's executive director, whichever is later in time;
10 and,

11 (4) Within thirty (30) days of the effective date of
12 this order and throughout the period of license
13 suspension, Respondent/Scott shall undertake
14 psychotherapy under the supervision of a licensed
15 psychiatrist or psychologist; and, the treating mental
16 health professional shall provide a written report every
17 three (3) months to the Board on the status of
18 Respondent's psychotherapy and compliance with
19 treatments. Respondent shall notify the Board of the
20 name and address of the treating mental health
21 professional. Although Respondent may select his
22 treating psychologist or psychiatrist, the Board retains
23 the authority to disapprove and disqualify the
24 psychologist or psychiatrist selected and require
25 Respondent to select another treating mental health
26 professional.

1 (5) At the conclusion of the minimum period for
2 suspension, Respondent/Scott may petition the Board for
3 reinstatement of his license to practice as an
4 osteopathic physician. Reinstatement shall be
5 contingent upon: (A) a showing that he has completely
6 complied while suspended with all terms of the Board's
7 Order, statutes and rules; and, (B) affirmatively
8 demonstrating to the Board's satisfaction that he has
9 the requisite psychological fitness and medical
10 knowledge to resume the practice of medicine; and, (C)
11 shall result in Respondent/Scott being placed upon
12 probation for a term of not less than five (5) years;
13 and (D) the Board shall specify more precisely by
14 written order the terms of said probation (if Respondent
15 satisfies the requirements previously stated), but said
16 terms shall include no less than a restriction upon
17 Respondent's ability to prescribe or otherwise use
18 schedule II, III, and IV prescription medications and
19 regular psychotherapy by a Board approved psychiatrist
20 or psychologist; and

21 (6) This Order shall be mailed to the offices of the
22 U.S. Attorney for the State of Arizona and the La Paz
23 County Attorney, in compliance with A.R.S. § 32-1855(L),
24 to consider evidence of possible criminal misconduct.

25 ENTERED this 3rd day of August, 1993.

26 

Robert J. Miller, Ph.D.
Board Executive Director

1 COPY of the foregoing mailed by
2 certified mail this 3rd day of
3 August, 1993, to:

4 Roger D. Scott, D.O.
5 P.O. Box AV
6 Parker, Arizona 85344

7 COPY mail by regular mail this
8 3rd day of August, 1993, to:

9 Charles Buri
10 Attorney at Law
11 1440 E. Washington, Suite 200
12 Phoenix, Arizona 85034

13 COPY mailed by interagency mail to:

14 Michael N. Harrison
15 Assistant Attorney General
16 1275 W. Washington
17 Civil Division, Licensing
18 and Enforcement Section
19 Phoenix, Arizona 85007

20 State Board of Pharmacy
21 ATTN: Joe Rowan, Deputy Director

22 U.S. Attorney
23 District of Arizona

24
25
26

27 MNH/clf/6982a.76-108